

From: HarrisMartin's Occupational Exposure Litigation

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Court Affirms Fee Award for Calif. School Employee As Prevailing Party in Public Records Dispute

LOS ANGELES — A California appellate court has affirmed an attorney fee award to a school district employee as the prevailing party in a dispute over access to school district records sought in reference to her claim of mold exposure.

The California Court of Appeal, Second District, held Oct. 24 in a published opinion that the trial court did not err in awarding Christina Garcia \$9,787.82 after ordering the Bellflower Unified School District to comply with some of the records demands made by Garcia.

Prior to filing her petition for a writ in 2011, Garcia's attorney asked for copies of documents in eight categories: lawsuits alleging mold or toxin exposure; all judgments or administrative decisions or awards within the past five years; documents showing the attorneys fees billed in Garcia's separate mold lawsuit (Garcia v. Bellflower Unified School District, No. BS127095, Los Angeles Super. Ct.); correspondence regarding public complaints against district administrators; documents relating to mold complaints from district employees or members of the public; documents relating to mold investigations; charges filed by district employees with the Department of Fair Employment and Housing; and certified transcripts of sworn testimony of two individuals.

Garcia's attorney received no response to the initial request and sent another letter on Aug. 22, 2011. He repeated the request in an email three weeks later. The attorney then sent a request to the superintendent via certified mail.

The district's general counsel responded by letter on Sept. 23, 2011, saying there were no responsive documents to categories 1, 3, 6 and 8, that numbers 2 and 5 were overly broad, and that categories 4 and 7 were exempt from public disclosure.

Garcia filed her petition for a writ in December 2011, asking the Superior Court to compel production of the documents sought under the California Public Records Act (Gov. Code, § 6250 et seq.).

The Superior Court ultimately determined that the request for documents in two categories were no longer at issue and denied the request for information on attorneys fees and complaints against administrators after the district asserted that it was not billed for fees and that no administrator complaints had been made.

The court also denied Garcia's petition for records relating to charges filed by district employees, finding that the district need not disclose records of pending litigation and, in any event, Garcia had obtained the records via subpoena.

The Superior Court granted Garcia's petition with respect to mold complaints and investigations, and previous judgments and awards, however.

Garcia then moved for an award of attorney fees as the prevailing party.

In opposing the motion, the school district argued that Garcia was not the prevailing party, that her petition did not result in any public benefit and that the fees sought were excessive.

The trial court disagreed, and granted the full amount sought. The district appealed.

“The District argues that there are no responsive documents apart from certain Cal OSHA documents already in Garcia’s possession, although the appellate record does not disclose this. In any event Garcia successfully obtained an order compelling the District to provide further written responses clearly stating whether there were any other responsive documents,” the Court of Appeal summarized.

“The trial court found that Garcia was the prevailing party in part because this litigation was ‘necessary to prompt respondent to comply with the Public Records Act.’ We construe this as a finding that Garcia succeeded on a significant issue in this litigation and achieved some of the benefit sought in this lawsuit. The District has shown no abuse of discretion in that finding,” the court decided.

The court also concluded that Garcia is entitled to her costs on appeal.

Acting Presiding Justice H. Walter Croskey wrote the court’s opinion, which has been certified for publication. Justices Patti S. Kitching and Richard D. Aldrich concurred.

J. David Sackman and Carlos R. Perez of Reich, Adell & Cvitan in Los Angeles represented Garcia.

Eric J. Bathern and Jordan C. Meyer of Law Offices of Eric Bathern in Costa Mesa, Calif., represented the Governing Board of Bellflower Unified School District.

Garcia v. Governing Board of Bellflower Unified School District, No. B247320 (Calif. Ct. App., 2nd Dist.).

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